IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)
THURSDAY, THE SEVENTEENTH DAY OF JUNE
TWO THOUSAND AND FOUR
PRESENT
THE HON'BLE MR JUSTICE G. BIKSHAPATHY
and
THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT PETITION NO : 6448 of 1998

Between:
A.V.Subbarathanamma D/o. A.Subbanna
Government Orphange for Girls, CUDDAPAH.

... PETITIONER

AND

1 The Secretary to the Government, Revenue Department, Secretariat
Buildings, Hyderabad.
2 The Secretary to the Government, Social Welfare Department, Secretariat, Hyderabad.
3 The District Collector, Cuddapah.

...RESPONDENT (S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue writ of certiorari calling for the records relating the order dated: 18.11.1997 O.A.No.720/89 and quash the same issue a consequential direction to regularize the service of the petitioner in the cadre of Clerk/Typist from 16.8.1988 and pay the difference of salary and also pay the salary for the period 1.12.1988 to 17.7.1990 and 1.1.1994 to 26.11.1995.

Counsel for the Petitioner: MR.S.LAKSHMA REDDY

Counsel for the Respondents: GP FOR SOCIAL WELFARE

The Court Made the Following Order:

ORAL ORDER: (Per GB, J)

This Writ Petition is filed challenging the order of the A.P. Administrative Tribunal dated 20-11-1997 in O.A.No.720 of 1989 to the extent of denial of salary from 01-12-1988 to 17-07-1990 and from 01-01-1994 to 26-11-1995.

2. The petitioner was appointed as Junior Assistant-cum-Typist on 16-08-1988, however, her services were terminated on 22-10-1989. Therefore, she filed O.A.No.720 of 1989 before the Tribunal. While admitting the said O.A., interim stay of the termination order was granted by the Tribunal. Consequently, the petitioner continued in service by virtue of the stay granted by the Tribunal.

3. However, while the petitioner was continued in employment under the orders of stay, the authorities have issued orders regularizing her services in pursuance of the order issued by the Government in G.O.Ms.No.124 dated 27-11-1995. Consequently, she filed an application M.A.No.3669 of 1996 stating that though her services were regularized, they were not regularized from the date of her appointment on daily rate basis. Basing on the said memo, the said O.A. was disposed of holding that in view of the regularization of her services, the order of termination stood set aside and directed the petitioner to make an application with regards the date of regularization, viz., either from

the date mentioned in the regularization order or from the date of daily rated appointment. Against the said order, the present Writ Petition has been filed to a very limited extent, viz., the payment of back wages.

4. The learned counsel for the petitioner would submit that when the termination order is set aside, the petitioner is entitled for back wages as if there is no termination in the eye of law, and therefore the Tribunal failed to grant such relief to the petitioner. We are afraid the contention of the learned counsel for petitioner cannot be accepted. The question of payment of back wages would not arise in the instant case inasmuch as she continued in service by virtue of the order of stay granted by the Tribunal, and while the situation stood thus, her services were regularized. In such view of the matter, the question of payment of back wages to the petitioner would not arise. That is the reason why the petitioner advisedly filed an application M.A.No.3669 of 1996 seeking appropriate directions.

6. Under those circumstances, we are of the considered view that the order passed by the Tribunal does not suffer from any infirmity or illegality.

7. Hence, the writ petition is dismissed. No costs.

ASSISTANT REGISTRAR

June 17, 2004
MRR

// TRUE COPY //

SECTION OFFICER

Copy to:

1 The Secretary to the Government Revenue Department, Secretariat
Buildings, Hyderabad.
2 The Secretary to the Government Social Welfare Department, Secretariat, Hyderabad.
3 The District Collector Cuddapah.
4 The Registrar, A.P. Administrative Tribunal, Hyderabad.
5 Two C.C.s to The G.P. for Social Welfare, High Court Buildings, Hyderabad (OUT)
6 Two C.D. Copies.